

## **REMARKS/ARGUMENTS**

The Applicants originally submitted Claims 1-20 in the application. In the present response, the Applicants have amended Claim 1 solely in response to a pending 35 U.S.C. §101 rejection. Support for the amendment can be found, *e.g.*, in paragraphs [0035]-[0039] and Fig. 3 of the original specification. No other claims have been amended, canceled, or added. Accordingly, Claims 1-20 are currently pending in the application.

### **I. Rejection of Claims 1-7 under 35 U.S.C. §101**

The Examiner has rejected Claims 1-7 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. In response, the Applicants have amended independent Claim 1 to more clearly point out that both the claimed data receiver and logic are of a border gateway router, a positively identifiable “hardware” element. As such, presently amended independent Claim 1 and Claims 2-7 dependent thereon comply with the requirements of 35 U.S.C. §101. Accordingly, the Applicants respectfully request the Examiner withdraw the §101 rejection of Claims 1-7 and allow issuance thereof.

### **II. Rejection of Claims 1-20 under 35 U.S.C. §103**

Previously, the Examiner rejected Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,393,486 to Pelavin, *et al.* (hereinafter “Pelavin”) and U.S. Patent Application Publication No. 2002/0021675 to Feldmann (hereinafter “Feldmann”). The Applicants respectfully disagree.

The Examiner appears to equate teachings of paragraph [0036] of Feldmann, specifically the teaching that "BGP policies can filter unwanted advertisements and assign local preferences, based on a variety of attributes" to the claimed disqualification of alternate routes recited in independent Claims 1, 8, and 15. (See, e.g., Item 6 at the top of page 5, bottom of page 7, and top of page 10, at Item 15 at the top of page 13.)

Independent Claims 1, 8, and 15 recite that alternative routes to a domain in a network are disqualified based on indications of reachability of nodes in the network. The cited portion of Feldmann relied upon by the Examiner teaches that BGP policies can filter unwanted advertisements and assign local preferences instead. The Applicants do not find in the cited paragraph [0036] or elsewhere in Feldmann that the BGP policies filtering unwanted advertisements have anything to do with unreachable nodes in a network and disqualifying routes, alternative or otherwise, that would use the unreachable nodes. There is no explicit teaching in the cited portion of Feldmann that the BGP policies of paragraph [0036] disqualify alternative routes in a network based on indications of unreachability of nodes in the network. Moreover, as noted at the end of paragraph [0019] of the original specification, the claimed loopback addresses are not typically subject to routing policies.

Thus, the cited portion of Feldmann relied upon by the Examiner does not teach the limitation recited in independent Claims 1, 8, and 15 of disqualifying alternative routes to a domain in a network based on indications of reachability of nodes in the network prior to an alternative route convergence process. As such, the cited portions of the cited combination of Pelavin and Feldmann, as applied by the Examiner, do not provide a *prima facie* case of obviousness for independent Claims

1, 8, and 15 and Claims that depend thereon. Accordingly, the Applicants respectfully request the Examiner to withdraw the §103(a) rejection of Claims 1-20 and allow issuance thereof.

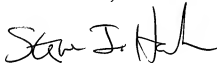
### III. Conclusion

In view of the foregoing amendment and remarks, the Applicants respectfully submit that all of the Claims currently pending in this application are in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-20.

The Applicants request the Examiner to telephone the undersigned agent of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

HITT GAINES, PC

A handwritten signature in black ink, appearing to read "Steven J. Hanke", written over the printed name.

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